

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF INDIANA
INDIANAPOLIS DIVISION

UNITED STATES OF AMERICA,)	
)	
Plaintiff,)	
)	
v.)	Cause No. 1:09-cr-0089-LJM-KPF
)	
LASHONE OWENS,)	- 01
)	
Defendant.)	

REPORT AND RECOMMENDATION

On April 3, and 21, 2020, the Court held hearings on the Petition for Warrant or Summons for Offender Under Supervision filed on March 25, 2020. Defendant Owens appeared in person with his appointed counsel William Dazey and retained counsel Terrance Kinnard. The government appeared by Michelle Brady, Assistant United States Attorney. U. S. Parole and Probation appeared by Officer Ariene Gilbert.

The Court conducted the following procedures in accordance with Fed. R. Crim. P. 32.1(a)(1) and 18 U.S.C. § 3583:

1. The Court advised Defendant Owens of his rights and ensured he had a copy of the Petition. Defendant Owens orally waived his right to a preliminary hearing.
2. After being placed under oath, Defendant Owens admitted Violation Nos. 2 and 3 as set forth in the Petition. [Dkt. 84.] Government orally moved to withdraw the remaining violation, which motion was granted by the Court.
3. The allegations to which Defendant admitted, as fully set forth in the Petition, are:

**Violation
Number**

Nature of Noncompliance

- 2 **“The defendant shall not possess a firearm, ammunition, destructive device, or any other dangerous weapon.”**

On March 23, 2020, the Owen County Sheriff's Department responded to a 911 call from a minor who had reported being attacked by her father. The victim reported that the offender had made threats to her and other family members with a firearm. Additionally, the victim provided a photograph of the offender holding a firearm while on a hunting trip that same day.

- 3 **“The defendant shall not leave the judicial district without the permission of the court or probation officer.”**

On August 14, 2019, the offender was pulled over by the Wyoming State Police. He had not received permission to leave the Southern District of Indiana. When confronted, the offender stated his nephew had won the lottery and they were going to Reno, Nevada to gamble. He also admitted that he knew to seek permission prior to leaving the district, but failed to do so.

4. The Court finds that:

- (a) The highest grade of violation is a Grade B violation.
- (b) Defendant's criminal history category is VI.
- (c) The range of imprisonment applicable upon revocation of supervised release, therefore, is 21 to 27 months' imprisonment.

5. The parties jointly recommended a sentence of twenty-four (24) months' imprisonment, with thirty-six (36) months of supervised release to follow.

The Magistrate Judge, having considered the factors set forth in 18 U.S.C. § 3553(a), and as more fully set forth on the record, finds that the Defendant violated the conditions set forth in Violation Nos. 2 and 3 of the Petition, and recommends that Defendant's supervised release be revoked, and that he be sentenced to the custody of the Attorney General or his designee for a period of twenty-four (24) months, with thirty-six (36) months of supervised release to follow.

In addition to the mandatory conditions of supervision, the following conditions of supervised release will be imposed:

1. You shall report to the probation office in the judicial district to which you are released within 72 hours of release from the custody of the Bureau of Prisons. (Supervised Release cases only)
2. You shall report to the probation officer in a manner and frequency directed by the court or probation officer.
3. You shall permit a probation officer to visit you at a reasonable time at home, or another place where the officer may legitimately enter by right or consent, and shall permit confiscation of any contraband observed in plain view of the probation officer.
4. You shall not knowingly leave the judicial district without the permission of the court or probation officer.
5. You shall answer truthfully the inquiries by the probation officer, subject to your 5th Amendment privilege.
6. You shall not meet, communicate, or otherwise interact with a person you know to be engaged, or planning to be engaged, in criminal activity. You shall report any contact with persons you know to be convicted felons to your probation officer within 72 hours of the contact.
7. You shall reside at a location approved by the probation officer and shall notify the probation officer at least 72 hours prior to any planned change in place or circumstances of residence or employment (including, but not limited to, changes in who lives there, job positions, job responsibilities). When prior notification is not possible, you shall notify the probation officer within 72 hours of the change.
8. You shall not own, possess, or have access to a firearm, ammunition, destructive device or dangerous weapon.
9. You shall notify the probation officer within 72 hours of being arrested, charged, or questioned by a law enforcement officer.
10. You shall maintain lawful full time employment, unless excused by the probation officer for schooling, vocational training, or other reasons that prevent lawful employment.
11. You shall not enter into any agreement to act as an informer or a special agent of a law enforcement agency without the permission of the court.
12. As directed by the probation officer, you shall notify third parties who may be impacted by the nature of the conduct underlying your current or prior offense(s) of conviction

and/or shall permit the probation officer to make such notifications and/or confirm your compliance with this requirement.

13. You shall make a good faith effort to follow instructions of the probation officer necessary to ensure compliance with the conditions of supervision.
14. You shall pay the costs associated with the following imposed conditions of supervised release/probation, to the extent you are financially able to pay: [substance abuse treatment] [substance abuse testing] [mental health treatment] [gambling addiction treatment] [educational or vocational services program] [location monitoring] [sexual disorder assessment, treatment, and physiological testing] [computer monitoring systems]. The probation officer shall determine your ability to pay and any schedule of payment.
15. You shall not use or possess any controlled substances prohibited by applicable state or federal law, unless authorized to do so by a valid prescription from a licensed medical practitioner. You shall follow the prescription instructions regarding frequency and dosage.
16. You shall submit to substance abuse testing to determine if you have used a prohibited substance or to determine compliance with substance abuse treatment. Testing may include no more than 8 drug tests per month. You shall not attempt to obstruct or tamper with the testing methods.
17. You shall not use or possess alcohol.
18. You shall not knowingly purchase, possess, distribute, administer, or otherwise use any psychoactive substances (e.g., synthetic marijuana, bath salts, Spice, glue, etc.) that impair a person's physical or mental functioning, whether or not intended for human consumption.
19. You shall participate in a mental health treatment program, as approved by the probation officer, and abide by the rules and regulations of that program. The probation officer, in consultation with the treatment provider, shall supervise participation in the program (provider, location, modality, duration, intensity, etc.). You shall take all mental health medications that are prescribed by your treating physician. The court authorizes the release of the presentence report and available evaluations to the treatment provider, as approved by the probation officer.
20. You shall provide the probation officer access to any requested financial information and shall authorize the release of that information to the U.S. Attorney's Office for use in connection with the collection of any outstanding fines and/or restitution.
21. You shall not incur new credit charges, or open additional lines of credit without the approval of the probation officer.


22. All employment shall be approved in advance by the probation officer.
23. You shall not knowingly enter any [bar, tavern, etc.] without the permission of the probation officer.
24. If you are employed less than 20 hours per week, you will perform at least 5 hours of community service per week, at a location approved by the probation officer.
25. You shall participate in a cognitive behavioral program, such as Moral Reconation Therapy (MRT), at the direction of the probation officer and abide by the rules of the program.
26. You shall submit to the search by the probation officer of your person, vehicle, office/business, residence, and property, including any computer systems and hardware or software systems, electronic devices, telephones, and Internet-enabled devices, including the data contained in any such items, whenever the probation officer has a reasonable suspicion that a violation of a condition of supervision or other unlawful conduct may have occurred or be underway involving you and that the area(s) to be searched may contain evidence of such violation or conduct. Other law enforcement may assist as necessary. You shall submit to the seizure of contraband found by the probation officer. You shall warn other occupants these locations may be subject to searches.

Defendant reviewed the foregoing conditions of supervised release with his attorney. Defendant, on the record, waived reading of the above-noted conditions of supervised release.

The Defendant is to be taken into custody immediately pending the District Judge's action on this Report and Recommendation.

The parties are hereby notified that the District Judge may reconsider any matter assigned to a Magistrate Judge. The parties have fourteen days after being served a copy of this Report and Recommendation to serve and file written objections with the District Judge.

Dated: 21 APR 2020



Mark J. Dinsmore
United States Magistrate Judge
Southern District of Indiana

Distribution:

All ECF-registered counsel of record via email generated by the court's ECF system

